



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/163585

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 26, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on March 24, 2015, at West Bend, Wisconsin.

The issue for determination is whether the agency correctly denied petitioner's application for MA due to being over the income limit.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Julie Williamson, ES Lead Worker  
Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.

2. Petitioner applied for Medical Assistance (MA) on December 18, 2014. In processing her application, the agency discovered unemployment compensation (UC) that petitioner was receiving.
3. The agency budgeted petitioner's UC income into her MA budget. The total income was determined to be \$1428.
4. On December 29, 2014 the agency issued a notice of decision stating that her MA was denied due to being over the income limit.

### **DISCUSSION**

BadgerCare Plus is Wisconsin's MA program for those who are not elderly or disabled. In order to be eligible for BCP, parents must be under the income limit of 100% of the federal poverty level. Wis. Stat. §49.471(4)(a); see also *BadgerCare Plus Handbook* §16.1.1 (Release No. 14-01), available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>. The agency denied the petitioner's application because her household income exceeds 100% of the federal poverty level. For a one-person household, 100% of the federal poverty level was \$972.50 per month, and for a 2-person household it was \$1310.83. *BadgerCare Plus Handbook*, §50.1.

Petitioner's monthly household income was determined to be \$1428. Because her income exceeds 100% of the federal poverty level, the agency correctly determined that she is ineligible for BadgerCare Plus. I add, assuming petitioner finds this decision unfair, that I cannot deviate from what the law requires and I do not have equitable powers. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

Petitioner is reminded that she can always reapply if her circumstances change.

### **CONCLUSIONS OF LAW**

The agency correctly denied petitioner's MA (BadgerCare Plus) application due to being over the income limit.

**THEREFORE, it is**

**ORDERED**

The petition for review herein is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 31st day of March, 2015

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 31, 2015.

Washington County Department of Social Services  
Division of Health Care Access and Accountability